IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

O.J.APPEAL NO. 68 OF 2002
In
COMPANY APPLICATION NO. 268 OF 2002
With
O.J.APPEAL NO. 69 OF 2002
In
COMPANY APPLICATION NO. 267 OF 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KIRTI MADHUSUDAN – Appellant (s)

Versus

O.L. VIJAY MILLS CO. LTD. & 7 - Respondent(s)

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Appearance :
MR. H.L. RAVAL for Appellants
MR. BHAVIK A. JOSHI for Appellants
OFFICIAL LIQUIDATOR for Respondent No(s).: 1.
MR. D.S. VASAVADA for Respondent No(s).: 2.
NOTICE SERVED for Respondent No(s).: 3, 4, 5,6.
MS. PAURAMI SHETH, AGP for Respondent No(s).: 7.
MR. M.M. TIRMIZI for Respondent No(s).: 8.
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CORAM :HONOURABLE MR.JUSTICE R.S.GARG &
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 30/06/2005

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. This order shall dispose of O.J. Appeal Nos.68 and 69 of 2002.

2. The appellants, being aggrieved by Order dated 24th September, 2002 passed on Company Application Nos.267 and 268 of 2002 by the learned Company Judge, are before this Court with a prayer that the Official Liquidator be asked to calculate the benefits to which the appellants are entitled as per the order of the Labour Court and make payment of the dues to the appellants and respondent no.1 i.e. Official Liquidator, be asked to treat the appellants permanent and put their names in the muster roll of permanent employees and grant them the benefit of rehabilitation, as given to other employees.

3. The learned single Judge, though alive to the situation that the appellants could succeed before the Labour Court, however, was not agreeable to grant them any relief on the ground that the applications were belated or time barred and there could be no ground in relation to ignorance of law. The learned single Judge observed that but for expressing sympathy towards the poor workman, he would not do anything further.

4. The matter in appeal came up for hearing before the

Division Bench of this Court on 8th October, 2003. The Division Bench partly allowed the appeals in relation to Relief No.(D), as claimed in the appeals, directing the Official Liquidator to calculate the benefits of both the appellants as per the order of the Labour Court dated 5th July, 1988 passed in Application Nos.835 and 836 of 1983. The Division Bench further observed that the Official Liquidator shall calculate the benefits on the basis of the compensation of wages awarded by the Labour Court. The Division Bench further directed that the appellants shall furnish calculations of their dues supported by the last drawn wage slip and on receipt of the same, the Official Liquidator shall verify the same and disburse the amount within two weeks thereafter. Thereafter, the Official Liquidator submitted the calculations in his Report dated 25th February, 2004 and submitted to the Court that the funds available with him were Rs.14,84,234=00 while the dues of each of the petitioner was Rs.47,311=00 only. It appears that thereafter, the matter could not see the light of the day and remained in suspended animation. In light of the order dated 8th October, 2003 whereunder the prayer in Clause-(D) has already been granted, we hereby direct the Official Liquidator to pay to each of the appellant a sum of Rs.47,311=00 within 15 (fifteen) days from the service of copy of this order.

5. So far as the prayer contained in paragraph-(E) is concerned, we hereby direct the Official Liquidator to refer the names of the appellants to the Deputy Official Liquidator, Textile Workers Relief Fund, to take action

in accordance with law for rehabilitation of the appellants. Accordingly, the appeals stand allowed.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.]***

*kamlesh**